IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE ELIPE DHARMA RAO**

**WRIT PETITION No. 15399 of 2005**

Between:

M. Laxmi W/o. Srinivasa Rao,

Proprietrix of Sri Venkata Raghavendra
Medical & General Stores, Javarpet, Machilipatnam,
Krishna District.

**..... PETITIONER**

AND

1 The Cmmissioner, Machilipatnam Municipality Krishna Dist.
2 Dasyam Narsimha Rao, S/o. Late Purushottam Hindu,
R/o. Javarpet, Machilipatnam, Krishna District.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of mandamus declaring the action of the 1st respondent in proposing to demolish the petitioner's shop i.e. Sri Venkata Raghavendra Medical & General stores Javarpet Machilipatnam, Krishna Dist. Javarpet, Machilipatnam Krishna District without giving any notice and without following due process of law which amounts to arbitrary, illegal capricious and violative of Articles 14,21 and 300(A) of constitution of India and consequently direct the 1st respondent not to demolish the petitioner's shop i.e Sri Venkata Raghavendra Medical & General Stores, Javarpet Machilipatnam, Krishna Dist. Bearing Door No. 7/492 (old)= 6/639/1 (New) situated at javarpet, Machilipatnam Krishna District and to pass necessary order or orders as this Hon'ble court may deem fit .

**Counsel for the Petitioner: MR.YALLABANDI RAMATIRTHA**

**Counsel for the Respondent No.1: MR.S.NAGESWARA REDDY**

**Counsel for the Respondent No.2: No appearance**

**The Court at the stage of admission made the following:**

**ORDER:**

This writ petition is filed seeking a Mandamus, declaring the action of the 1st respondent in proposing to demolish the shop of the petitioner bearing No.7/492 (old) – 6/429-1 (old) – 6/639/1 (New) situated at Javarpet, Machilipatnam, Krishna District, without initiation of proceedings under Land Acquisition Act and without following the due process of law, as illegal and arbitrary.

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the 1st respondent/Municipality.

The learned counsel for the petitioner contended that the petitioner is the tenant of the 2nd respondent and she has been doing business since 1987 in the said shop bearing No.7/492 (old) – 6/429-1 (old) – 6/639/1 (New) situated at Javarpet, Machilipatnam, Krishna District and either herself or her owner 2nd respondent have not encroached any Government site. It is her further contention that without initiating land acquisition proceedings, and without issuing any notice, the 1st respondent is proposing to demolish her shop in the process of road widening.

On the other hand, the learned counsel for the 1st respondent contended that on mere apprehension only, the petitioner filed this writ petition, and the 1st respondent has not been taken any steps for demolition of shop of the petitioner.

The Division Bench of this Court in ***P.Lakshmana Rao v. Executive Officer*** issued certain guidelines to be followed by the authorities in acquiring the properties of public for the purpose of widening roads. When a property is required for public

purpose viz., for widening of roads or for any other purpose, the authorities straightaway cannot take the law into their hands and jump into the premises and attempt to evict the occupants or dispossess them or demolish their property. Before taking any such action, the authorities concerned shall issue a notice notifying as to the nature of the property, the purpose for which it is required, to whom it belongs and the action proposed calling for explanation or objections, if any, from the occupants and after considering the said objections or explanations, the authorities shall pass appropriate orders, if necessary.

Following the guidelines issued by this Court in the above referred judgment, I deem it appropriate to dispose of the writ petition with a direction to the 1st respondent not to take any steps for demolition of shop of the petitioner without following due procedure, without initiating land acquisition proceedings and without making any negotiations with the petitioner.

The Writ Petition is, accordingly, disposed of. No order as to costs.

**ELIPE DHARMA RAO,J**

Dated: 15.07.2005

Dsr

**Note:**

**Issue operative portion**

**by wire at party's costs.**

**B/o**

**Dsr**

**ASSISTANT REGISTRAR**

To:

1. The Commissioner,

Machilipatnam Municipality,

Krishna District

2. Two CD copies

*Form-NIC-OGS/WP{**CTMP**}*